



- 2) The jury could not reasonably conclude that Maxus is entitled to coverage caused by water infiltration into Phases 1-4 of the Metropolitan because there is no evidence that it occurred during the policy period that ended on September 30, 2018.
- 3) The jury could not reasonably conclude that Maxus is entitled to Business Income and/or Rental Value losses attributable to being unable to rent Phases 1-4 based on the evidence presented by Maxus.
- 4) On Count II of Maxus' Petition, the jury could not reasonably conclude that Travelers vexatiously refused to pay the insurance claim at issue in violation of Mo. Rev. Stat. § 375.420.

The grounds for this motion are more fully stated in the accompany suggestions in support. For the reasons stated therein, the Court should grant judgment as a matter of law on all of Maxus' claims, or alternatively, grant partial judgment as a matter of law on the following:

- 1) Maxus' claim for remediation of combustion byproducts in Phases 1-4 of the Metropolitan;
- 2) Maxus' claim for damage caused by water infiltration into Phases 1-4;
- 3) Maxus' claim for Business Income/Rental Value losses from Phases 1-4; and
- 4) Count II of the Petition, alleging vexatious refusal to pay under Mo. Rev. Stat. § 375.420.

If the Court grants the partial relief sought, the only issues submitted to the jury will be whether any additional amounts are owed with respect to Phases 5 and 6 of the Metropolitan.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I do hereby certify that on August 2, 2023, I electronically submitted the foregoing with the Clerk of the Court for the United State District Court for the Western District of Missouri using the CM/ECF system, which will send a Notice of Electronic Filing to the following counsel of record:

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